

〈専任研究員〉

Understanding Eastern Europe; Weak civil society and the de-democratisation in Poland

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Since the 2015 election, Poland, once feted for having defied communism, populist tendencies, and the global recession, has been facing the mixture of disbelief and condemnation for its de-democratisation policies. Economists usually base their analyses on the assumption of participants' rationality. Following this, people, if they have a choice, would choose more freedom and more wealth, not less. But it does not seem to hold in Poland. Like for other former Soviet satellites of Eastern Europe, 1989 was not 'the end of history' for Poland, it was rather the beginning of new era. The NATO and the EU membership constituted one in a century chance to create wealthy, liberal, and democratic society. Apparently, as other Eastern European new democracies, the country succeeded in doing it.¹⁾ At the same time, those who wanted to work, study, or simply enjoyed travelling abroad could benefit from the free movement of people within the EU. For the first time in three centuries the country has enjoyed safety and international respect; in July 2009 its former prime minister Jerzy Buzek was elected the head of the European Parliament and between 2014 and 2019, Donald Tusk served as the President of the European Council.

Yet, in spite the undeniable economic and political success, in 2015 Polish voters handed power to xenophobic, conservative catholic, and radically Eurosceptic the Law and Justice Party. As the results of 2019 general election confirmed the Polish public seemingly approves the anti-EU excesses of the government officials²⁾ and shows strong Euroscepticism itself.³⁾ In addition, the voters do not object illiberal policies such as dissolution of independent judiciary, discrimination against minorities (including the LGTB), the crackdown on independent media, along with the widespread pork-barrelling, cronyism, and corruption of the ruling party.

One of widely accepted explanations of the voters' attitude, that counters the rational expectations, is usually attributed to the disillusion with liberal democracies and public sway towards populism, much the same process that has taken place in Western Europe after the refuge crisis in 2015. In this essay, while not rejecting basic findings about the crisis of the liberal democracy, I argue that, in first place, it is the weakness of the civil society that should be blamed for the anti-democratic changes in Poland. After presenting the background of the 'illiberal democracy' (I prefer to call it an 'electoral authoritarianism'), based on Poland's experience, I discuss how the weak civil society may have a negative impact on seemingly well-established institutions of a liberal democratic state.

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‘Illiberal state’ as a political project

Victor Orban, the Prime Minister of Hungary, described his country political construction as an ‘illiberal state’; “[that] does not deny foundational values of liberalism as freedom, etc. But it does not make this ideology a central element of state organization...”. He deemed as unacceptable the situation that an executive branch of government, for example the US President, could be investigated or prosecuted upon contravening (orig. “encroaching”) its constitutional powers.⁴⁾ That echoes Zakaria (1997) description of ‘illiberal democracy’ as a governing system where, although electoral mechanism along other institutional elements of democratic state (courts, local governments, media etc.) do formally exist, the governed citizens do have neither knowledge nor influence on a decision-making process (and indeed all other activities of those who govern). Zakaria, writing mainly about the semi-democratic states of East Asia and former Soviet Republics, pointed that, although the Western tradition (arguably only approximately 150 years old) considered electoral democracy and civil liberties (such as freedom of speech, religion, association, property rights etc.) as inseparable elements of a democratic political project, around the world the two concepts were coming apart. Consequently, while in Western societies the democratic electoral mechanism usually produces systems of liberal and democratic representation, a democratic electoral mechanism without constitutional liberalism (that means guaranteed civil liberties) produces centralized autocratic regimes. Zakaria cited the examples of Argentina’s Menem, Ecuador’s Bucarem, Peru’s Fujimori, and finally 1993 Boris Yeltsin’s coup. All of them were, at time, highly approved by public. Orban (2014) extended the list for Singapore, Russia, Turkey, and China as ‘successful’ but non-liberal (or not democratic either) countries.

The Orban-Zakaria list of illiberal states comprises mainly of nations that have never managed to develop any liberal democratic form of government. On the other hand, the form of government that we tend to think about as model liberal democracies are usually confined to the Western (Western Europe and the US) political constructions based on the consensus reached there after the World War II. The consensus has been that a country should be governed by moderate parties between the left (e g social democrats) and the conservative (e g Christian democrats) political spectrum with the radical (or anti-systemic) parties being marginalised. It is very important that under the consensus both the winners (a governing party) and the losers (an opposition) remain the representatives of their voters, the next election may change the outcome and change of a government does not mean the end of the agreed consensus. As a result, the political stability could prevail.⁵⁾ The consensus has never been an easy one. The need for a coalition formation confused voters regarding their parties’ policy objectives and made the mainstream parties resemble each other (e g the ‘New Labour’ and the Conservative Party in the post Tony Blair era). That in turn, made some voters feel deceived or not represented (as coalition politics forces to avoid addressing social problems that are important for them), and annoyed by the imposed on them ‘political correctness’ (e g ‘political taboo’ topics and the deficit of truly pluralistic political dispute). Also, the efficiency of the liberal democracy control mechanisms was gradually reduced due to ‘state security’, ‘strategic reasons’ etc. Whistle-blowers scandals, like the Eric Snowden one, contribute only to the build-up of public distrust.

The liberal democratic consensus could survive for several decades after the war due to the

combination of factors ranging from the guilt and fear of the horrors of war (started by non-liberal regimes — the argument that could be attributed to Hannah Arendt), the pressure from the cold war foes (arguably the USSR was a non-liberal political construction), and/or thanks to the economic achievements of the European Union. However, during last decade or so, with the horrors of the great war almost forgotten and the communism in the Soviet Union collapsed, the liberal democratic consensus has faced its new obstacles that arose from the changing legal, political, and economic environment in the 21st century. Changing technology and environment, intricacy of economic policies, the role of money in politics, inequality etc. produced the phenomenon of the 'undemocratic liberalism' (Mounk, 2018).

Supposedly to deal with the complexity of political decision-making process, state bureaucracies have taken more and more issues under their jurisdiction. Originally, bureaucratic bodies were supposed to work on implementing legislations prepared by the legislature. But in growing number of areas, they have been allowed to take over the policy formulation from the elected legislators. Acting as 'independent agencies' they become increasingly free from oversight either by elected legislatures or by the executive branch of government. The European Commission could be named as the example of such an 'independent agency'. Itself an organization of career bureaucrats, the Commission is supervised neither by the weak European Parliament (its members elected in low-turnout elections) nor by a summit of the heads of the member states that meets only a few times a year. As a result, the unelected bureaucrats of the Commission have been initiating and preparing (a legislative role) as well as implementing (an executive role) the EU rules.

The EU Commission is by no means the only European bureaucratic institution in an open conflict with the liberal democratic consensus. In early years of the liberal democratic consensus, the activities of central banks were greatly limited by the post war international currency arrangement agreed in Breton Woods. But nowadays central banks are expected to influence economic trends (e.g. unemployment), control the inflation and money circulation, regulate commercial banking sector, act as a lender and borrower of last resort as well as perform banking services for governments. Yet most of the economists consider the independence of a central bank to be a dogma. National central banks are subject to varying (usually quite weak) accountability requirements, usually facing their national parliaments. But, as the story of the Greece's sovereign debt crisis shows, in the absence of a single European state, the weakness of the *elected* European Parliament allows the six *unelected* bureaucrats at the top of the European Central Bank to usurp the right to re-interpret the basic treaties of the European Union.⁶⁾

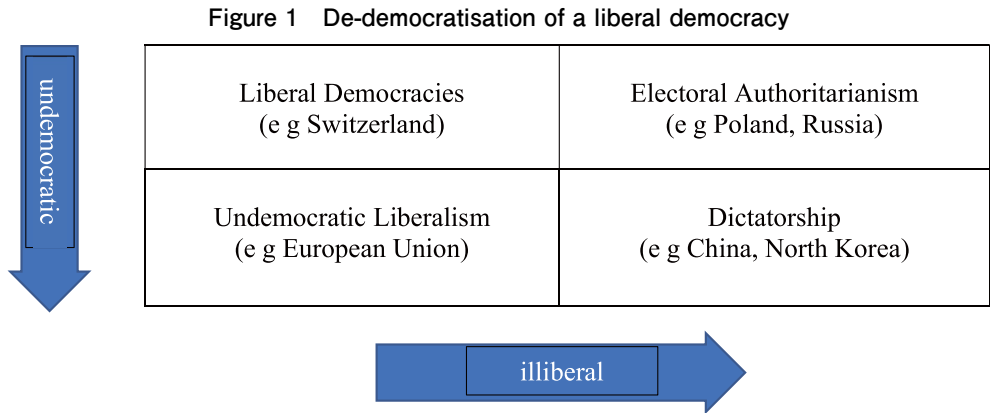
The same logic applies also to other international institutions, the United Nations, the International Monetary Fund, the World Bank, the World Health Organization, the UNESCO just to mention the most important, that are funded by taxpayers' money with little or no oversight.

The rise of judicial review is another way to show how important issues have been taken out of democratic contestation. While not denying the importance of judiciary in advancing citizen rights, it is hard to overlook the fact that it takes decisions away from people and places into hands of technocrats who, as unelected, do not represent them.

The rise of globalization and increasing number of international treaties regulating flows of goods, services, capital, and people offer undisputable economic benefits to the world but, at the same time, they increasingly restrict the sovereignty of states and therefore also limit the area where legislators

can respond to the popular preferences at home. Stiglitz (2012) vividly describes the impact of globalization on the quality of democratic processes in the United States.

While the expanding authority of bureaucrats, the rise of judicial review, or the rise multinational interrelations due to the globalization processes do withdraw important issues from the popular political contestation, also the democratic institutions (parliaments) do themselves a very poor job in translating public views into public policies. Party politics has transformed the legislator's job from representing the constituency views into representing party leadership views (as the leadership assigns candidates to their constituencies). This quite effectively insulated legislators from the views of the people they are supposed to represent. At the same time, being a legislator has increasingly become a way to make living rather than a mission to improve the world. Participating in election process has become a kind of business investment where the personal and professional experiences of candidates matter less than their party contacts and wealth. Especially, as the role of money in the political process has grown, the campaign contributions seem to have changed the electoral process from 'one person — one vote' to its caricature of 'one dollar — one vote'. Stiglitz (2012) dates it back to the Reagan's 'conservative revolutions' and has described the negative political, legal, moral, and economic consequences of party politics for the United States society.



Source: adapted and modified from Mounk (2018)

Like Zakaria, Mounk (2018) suggests that the condition of a liberal democratic state should be analysed as the combination of the two, liberalism and democracy, separately. Following this, an 'undemocratic liberalism' (such as discussed above bureaucratic changes in the EU) would constitute one form of distortions in the post-war consensus. Protecting civil liberties combined with the loss of democratic control functions could be illustrated by a vertical move as in Figure 1. On the other hand, the loss of liberal functions (reducing the level of liberty) could lead to an 'illiberal state' as described by Mounk (2018) or Zakaria (1997). Depending on the loss of democratic functions it could represent various forms of authoritarian regime or an outright dictatorship.

It is important to notice that, although using the same terminology, Antoszewski (2018) and Mounk (2018) describe the *disillusionment with already existing liberal democracies*, while Zakaria (1997) refers to *democracies that never existed* (i.e. countries that have never experienced any liberal democratic form of government). That means, they describe two different phenomena; Antoszewski

(2018) and Mounk (2018) analyse the factors behind the rise of *populism* in Western democracies, but Zakaria (1997) describes the *autocratic regimes* in Latin America and Eastern Asia.⁷

Against this, the very concept of the 'illiberal democracy' has been criticised by many authors. Levitsky and Way (2002), for instance, write about 'hybrid' regimes (semi-democracies or partly free regimes) as states where democratic institutions are mainly the principal means of obtaining and exercising political authority. Incumbents violate the democratic rules to such an extent that the regime "fails to meet conventional standards of democracy".⁸ As such a state is not a democracy, they suggest calling its political construction a 'competitive authoritarianism' rather than an 'illiberal democracy'. Similarly, Sadurski (2019), analysing political system in Poland after 2015, calls the 'illiberal democracy' an oxymoron as democracy without necessary checks and balances and judicial review ceases to be democracy after all. He prefers calling it a 'plebiscitarian authoritarianism' (note that also Victor Orban used the term of an 'illiberal state' not an 'illiberal democracy' to describe his country's ideal political arrangement). Finchelstein (2019) and Stanley (2020) go even further and insist on describing such a political construction as 'fascism'. The latter compares the political system in Poland after 2015 to the Franco regime in Spain with its antidemocratic and integralist influence of the Catholic Church.

There is also the issue of populism and how it is related to the *illiberal* project. Populism is usually described as 'a government or politics based on an appeal to popular sentiments or fear' (Oxford Dictionary of Current English). But as a result, such a definition classifies together as populists such politicians as Bernie Sanders, Hugo Chavez, Juan Peron, Rodrigo Duterte, Victor Orban, or Marine Le Pen. I think making equality between illiberal state (electoral authoritarianism) and populism is a mistake. Undeniably, authoritarian leaders often use populist techniques, but it would be an overstatement to say that all populists belong to the category of electoral autocrats; at least the model populist regime of Greece's Syriza did not make any attempt to alter the country's political system.

Behind the rational expectations; voting transaction

Countries on the Orban-Zakaria list mainly include nations that never experienced democratic government and therefore it may be less surprising to find that their voters repeat choosing autocrats. But it is much harder to understand that voters, experiencing clear benefits from its liberal democracy and international alliances, could prefer less freedom and less affluence. This section tries to find some rationality behind such a choice.

Four years after the election that resulted in the Law and Justice coming to power, Sadura and Sierakowski (2019) tried to find out why the voters in Poland still approved the ruling party illiberal policies such as dissolution of independent judiciary, discrimination against minorities (including the LGTB), the crackdown on independent media, along with the widespread pork-barrelling, cronyism, and corruption. They divided major parties' electorates into two basic groups; the stable (hard core) voters who vote for their party each election and those who represent 'mobile' electorate (i.e. they voted for a different party in previous elections). Then, based on their original questionnaire, they tried to analyse the voters' motivation.

The study's results brought quite a few interesting findings. First, the voters tend to treat an

electoral process in terms of a 'transaction cycle'. Knowing that the time they cast their votes is the only moment when they have a real political influence, the voters use it to demand from politicians a 'sufficient reward' for the support; be it lowering pension age, children allowance, additional monthly pension allowance, and so on. In exchange for such short-term specific benefits (tangible in contrast to the vague ideals of liberalism), the voters allow their supported party to perform its policies for the next four years.⁹⁾ To be sure both sides, the elected and the electors, are perfectly aware of dubious moral standard of the 'transaction'.

Sadura and Sierakowski (2019) found yet another interesting characteristic of the 'transactional' voters. Polish voters strongly condemn *private corruption* (i.e. when an individual abuses her or his public position to earn private gains). But they usually accept *public corruption*, a situation when corrupting conduct results in successful implementing policies of a group they support or ideology they identify themselves with. That could explain the contradiction between the public perception of corruption¹⁰⁾, the country's deteriorating position in the Transparency International Corruption Perception Index (Poland dropped from 36th to 45th out of 180 countries between 2017 and 2021, with its score decreasing by 6/100 points) and lack of significant change in the voters' support for the ruling party (almost steady 35-40% depending on the survey performing institution).

Poland, as other liberal democracies, also witnessed a sharp increase in anti-elite demagoguery. As Poland has undergone a deep social change since 1989, its then formally egalitarian communist society has been eliminated. Elites that emerged in the new economic and political realities had a strong message of "working (or studying) ever harder to catch up with the rest of Europe". The message, apparently appealing at the beginning of the post-communist transformation, lost much of support when the resulting from transformation processes social disparities became evident. It was then easy to replace it with the new populist slogan; that there was no need to follow the decadent West and its ecologists, vegetarians, and libertarians who lost their Christian European roots. The new commune from the post 2015 elites does not need to explain why a German or Frenchman lives better life than average Polish countryside dweller does because the latter's life is superior to them thanks to his supposed "true European Christian identity (no matter how benighted, unsanitary, socially backward and full of superstitions and xenophobia it is). That was the message many in Poland wanted to hear for years after 1989. And it is almost impossible to counter it without risking the Hillary Clinton's "basket of deplorables" disaster. Anti-elite demagoguery helped to solidify the Law and Justice its electoral base and became an important element of the politicians-voters "election transaction". Explaining that being boorish and uneducated is not 'cool' and the patriotism does not equal the hatred of foreigners is as difficult as disputing the rationality of the "America First".

Sadura and Sierakowski (2019) have found one more very surprising characteristic of Polish voters; the supporters of the ruling party clearly do not want their party to reach a constitutional majority in Parliament. It seems that although they support the destruction of independent judiciary in the country, at the same time the voters would like to see some degree of political control for the ruling party actions. Perhaps it proves that the Polish voters do not understand the basic function of the separations of power (legislative, executive, and judicial).

Weakness of the civil society

A well-designed democratic state comprises of a constitutional framework (that puts limits on the authorities' tendency to abuse its powers), the rule of law (that ensures all participants follow identical standards), the separation of power (that enables a necessary system of checks and balances), and democratic system of voting (that enables all citizens to participate in selecting a government). It is worth noting, that this what public usually calls a democracy, the system of counting votes, is a relatively new element (most of established democracies adopted universal voting rights only within last 100 years).

Searching for factors behind the failure of liberal democratic state in Poland, Hanley and Dawson (2017) note that "contrary to appearances, liberal democracy was never solidly rooted in Eastern Europe". They conclude that it is not because of the institutional design, rated by most scholars as excellent, but because of ethical norms that do not fit the liberal democratic institutions. And the institutions cannot work properly without people that follow their ethical norms. Sienkiewicz (2018), himself an active participant in Polish politics, offers three main areas responsible for the failure of the civil society (and therefore the rule of law) in Poland; the common attitude to law, an inefficient education system, and the relations between the state and the Catholic Church.

Somehow simplifying, it is plausible to think of a legal system as a set of social rules that make people life more stable (at least in theory, changes of the rules take place in a civilized manner with considering costs and benefits of all groups concerned), safer (law supposedly protects us from criminal activities), and cheaper (if we follow the rules, then others will do it also and there is less need to insure against the risk of unexpected behaviour of our partners). But this is how it works in liberal democratic societies. Those who live under illiberal and undemocratic regimes tend to view the legal systems as tools the authorities use to oppress their citizens. Therefore, also the need to obey the law arises for totally different reasons; contrary to liberal democracy where obeying the law results from a public consensus, it is the risk of penalty that enforces the adherence to rules.

Poland, that arguably never had a good record of public adherence to rules (e g the infamous anarchy in decades preceding its partition at the end of 18th century), stayed under *de facto* foreign occupation for more than a hundred years until 1918, then suffered the results of the Nazi occupation during the World War II, and almost 45 years of the *de facto* Soviet occupation until 1989. Not surprisingly, the public became accustomed to think of law violation not in the category of crime but rather a self-defence from the oppression of a (usually foreign) state. Under such circumstances, an almost widespread consent to misdeed, violations of environmental rules, or even outright thefts of public (common) property has its roots in the misunderstanding the role of law in a modern society. Even if this attitude is rooted in the country's historical experience, it looks like the Polish democratic state failed to eliminate the 'occupation syndrome' after 1989 (or in other words, the state failed to convince its public about its liberal democratic character) and is, at least partly, responsible for the peculiar 'election transactions'.

Sienkiewicz (2018) also raises the issue of specific relations between the state and the Catholic Church preserved in Poland after the 1993 concordat was signed. The Catholic Church itself is a deeply conservative institution, often opposed to modernisation and liberal trends. But Poland's

Catholic Church, with its lack of religious tolerance, opposition to equality of sexes, discrimination against minorities, and its greed is perhaps closer to the integralists of the mid-19th rather than to the Pope Francis Rome.

The relations between the Polish state and the Catholic Church have been regulated by the 1993 concordat. Both sides have agreed on the separation of the religion and state (Article 1). Accordingly, the state committed itself not to intervene into religious affairs of the Church, while the Church was supposed not to intervene in any other areas except for issues directly related to the catholic religion. The freedom of religion and the relations between the state and churches have been also regulated in the Article 25 of the country's constitution. Sadly, the Church, as an institution, has abode neither by the concordat nor by the constitution norms. Using various instruments (such as threats of excommunication) the Church put pressure on the members of Parliament when lobbying for favourable (e g broadcast regulations) or attempting to prevent inconvenient legislation (e g on abortion, in-vitro fertility treatment, the ratification of the Istanbul Convention on Preventing Domestic Violence etc.). The Church has openly opposed verdicts of domestic courts and the European Court of Justice, and even demanded dissolution of Parliament and early election (Borecki, 2012) !

On the other hand, the state also does not protect its own (and its citizens) rights when confronting the Church. Catholic (other religions practically absent) priests work in schools as religion teachers, chaplains in the army and prisons receiving remuneration for public officers. Despite the formal separation of religion and state, salaries for the catholic religious services and various subsidies amount to 0.5% of the state expenditures. The public, no matter of faith, participates in subsidising the Church as taxpayers. Apart from it, the faithful support the Church transferring approximately an amount of average monthly salary a year in the form of various donations, gifts, Sunday collections etc. No need of saying that special ceremonies (baptism, confirmation, wedding, funeral etc.) require an additional payment that is not declared to fiscal authorities and never taxed (Solska, Ćwieluch, 2011).

While the donations of the faithful are the matter of their personal relations with the Church, the 2000 ruling of the Polish Supreme Court on the supremacy of the Catholic Church Law over the country's civil law clearly show how unbalanced the relation is.¹¹⁾ The Church opposition to Covid-19 restrictions or obstruction to investigating the paedophilia among clergy also falls into this category.

Sienkiewicz (2018) considers the country's obsolete education system as another factor responsible the weakness of civil society in Poland. The Council of European Union has adopted a recommendation on key competences considered to be crucial for personal fulfilment, a healthy and sustainable life, employability, social inclusion, and active citizenship. These competences are: 1) literacy, 2) multilingualism, 3) numerical, scientific, and engineering skills, 4) digital and technology-based competences, 5) interpersonal skills, and the ability to adopt new competences, 6) active citizenship, 7) entrepreneurship, 8) cultural awareness and expression.¹²⁾

On the one hand, since 2012, Poland's 15-years old students have been doing very well in the PISA ranking. But the PISA ranking applies only to the first four competences required in the EU recommendation. The Active Citizenship Composite Indicator for Europe sees Poland third from the bottom only with Hungary and Greece behind. In categories such as volunteer activities, community participation and politics (election participation) Poles are right at the bottom (CRELL, 2006). Although

there is no CRELL research for Poland after 2006, it is rather hard to expect much improvement there. Similarly, also other research on the country's education system indicate that Polish schools are quite successful in providing theoretical (textbook) knowledge and identification with the nation but do not teach civil activity, solidarity, cooperation with local community, the ability of discussion and analysis of the surrounding environment etc. It is the direct result of the 19th century like education model where the teacher's domination in a classroom is sufficient for conveying a textbook knowledge, but civil society skills are considered non-essential (at best they would be serving the occupation authorities — see also earlier remarks on the attitude to the rule of law).¹³⁾ Teacher's dictatorial powers have been reinforced by the evaluation system, where failing an examination may decide on student's entire remaining life. As a result, schools produce individuals capable of memorizing and remembering textbook content but unable to cooperate in a local community, not interested in analysing the surrounding world, and always in need of a powerful authority to guide her or him (a teacher, a parent, a political leader).

There are numerous factors responsible for the weakness of the civil society in Poland. The state that does protect its integrity (like in the relations with the Catholic Church) does not command much respect from its citizens. Citizens that do not comprehend the functions of law and separation of powers, do not oppose the destruction of independent judiciary and the rule of law. Liberal democratic society does the assessment of its leaders based on the efficiency criteria. But individuals produced in an obsolete undemocratic schools lack this ability and tend to pass their own responsibility for decisions to 'man on the top'. The 'man on the top' is not a leader in a democratic sense but is likely to assume a 'father of the nation', a 'strong man', or 'anointed from God' status. The ethic norms underlying the liberal democratic institutions are not the innate sense of justice, but the knowledge acquired in one's cultural and educational environment.

How we got there (1); maybe Poland has never been a real liberal democracy

Institutions do not work without people and their efficiency depends on the quality of the management. The post 1989 transformation was intended to close the huge civilization gap between the former communist society and the rest of Europe. But the elites that oversaw the transformation were liberal in their views on economy only. They accepted the most restrictive anti-abortion regulations in Europe, restrictive laws on offending religious feelings or symbols, or on offending public offices that have been, to put it mildly, at least outdated at the end of 20th century (saying in public that the country's president is 'stupid' risks a couple of years prison sentence). The elites did not see much problem in police abusing the rule of remand in custody; Polish state is notoriously famous for remanding in custody without trial with the aim at exerting psychological pressure on defendants (in extreme cases it may take years in jail without even being indicted)¹⁴⁾. The Law and Justice party that has ruled the country since 2015 has been rightly condemned for its restricting the freedom of media (especially the attempt to silence the US owned tv station TVN24 made news around the world) but authorities have practiced an 'economic censorship' for decades¹⁵⁾, the difference between the current rulers and their predecessors lies mainly in the brutality of measures used and the number of cases.

A 'negative selection' in public officers' recruitment has been another important factor in the

country's failing liberal democracy. Fiscal balance (or austerity) was one of the most difficult issues during the transition from central planning to the market. In case of the public service, it means the choice between reducing the employment of public officers or reducing their salaries. Despite warnings that it might result in declining quality of public service, especially at the beginning of the transition process, in the early 1990s, faced with massive unemployment resulting from the collapse of the inefficient state-owned companies, authorities usually chose to reduce public officers' salaries and use the public service as a substitute of a social safety net. Not surprisingly it was followed by the outflow of the skilled cadres to the private sector (Krawczyk, 1998). The tendency of underpaying public officers has continued for years and is responsible for drastic income disparities and qualified personnel shortages in public services. No need of saying, that poorly paid (and therefore often poorly skilled) bureaucrats would easily switch their allegiance if faced threat of losing their posts (what explains their lack of resistance to the destruction of a democratic state). The same applies to public media employees who, faced with the choice between continued employment and journalist ethics, are likely to choose the former.

Moral ethics and the ethos of democracy seem more likely to be popular in richer societies. When it became clear that Polish 'America dream' is not likely to materialise and, in spite, of working harder and longer, not many are going to live German or French standards, the Polish voters received a clear message from the country's national-catholic Right, that the 'decadent' EU and its liberal 'quislings' are responsible for the misery of unprivileged. Those who did not believe that message could search for German or French living standards by emigrating there.

How we got there (2); the EU accession

After the collapse of communism in 1989, Poland as well as other former Soviet satellite states faced the plethora of political and economic challenges. They urgently needed to transform their obsolete centrally planned economies into modern competitive market ones while, at the same time, not allowing for drastic reductions in living standards (otherwise a social unrest could undermine the entire democratisation process there). Most of countries of the region decided to follow a 'shock therapy' recipe (economic liberalisation combined with draconian anti-inflationary measures and large-scale privatisation). In the area of politics, the former Soviet satellites hoped to transform their political systems from the communist era one-party dictatorships into modern liberal democracies. That required both building institutions fitting the standards of such a state and, no less important, building civil societies necessary to operate the institutions. It is worth noting that, perhaps with exception of the former Czechoslovakia, almost none of the countries had had any lasting experience with democratic forms of a government even before they fell victim of the Soviet occupation.¹⁶⁾

The former Soviet satellites met with lot of understanding and cooperation of their Western partners. Switching military alliances (accessing the NATO) helped to avert the danger of an immediate military intervention, had Russia intended to restore its sphere of influence. Europeanisation (accessing the EU) was to ensure building modern societies. The EU quickly signed association agreements with the Eastern European governments and set up the framework for the EU integration process in the form of so called 'Copenhagen Criteria' (stability of institutions guaranteeing democracy, the rule of law, respect for and protection of minorities, functioning market

economy and the ability to cope with the competitive market forces within the EU, and the ability to participate in the political, economic, and monetary union). But transforming the infamous 'homo sovieticus' into a modern liberal democrat proved to be harder than expected.

Hanley and Dawson (2018), in the paper that drew a lot of irritation in Poland, argue that the EU Commission deserves a lot of blame for the failure to prevent the raise of illiberal and nationalist politics in the newly accession countries. Undoubtedly, the EU did its best to successfully shape the governing structures of accession countries but could do nothing to shape their moral norms. Using a mixture of mild persuasion and hard measures (e.g. subsidies) the Commission made democratic elections, minority rights and a functioning market economy the non-negotiable element of the accession. Linking the democratisation with accession process the EU made a giant bet on the power of institutions believing they would make people to embrace the norms. The reality is not so simple. Although it is possible to enforce building institutions, it is virtually impossible to make people to believe in the ethical norms underpinning these institutions. The EU tried to address the problem by its available technocratic means; by making the accession governments to sign up to conventions in problematic areas such as minority rights, preventing domestic violence etc. Contrary to the structural framework, implementing and policing the ethical norms is not as easy as controlling the common trade policy or technical standards, it would require sometimes a generation long educational process to embrace the norms, therefore making an accession process longer and slower. On the other hand, postponing the accessions, or in some cases even having no accession at all, would certainly draw a lot of criticism for wasting the opportunity of the post-cold war unification of the continent, not to mention the disappointment in the candidate countries. Not to delay the accession process, the EU seemed to be satisfied by meeting the technical criteria in legal sense only, leaving unfinished the open public debate on the ethical side of the integrating institutions.¹⁷⁾

Considering the assertive policies of Putin's Russia, it might have been a right decision at that time but the raise of the de-democratisation in Hungary, Poland, and to less extent in other EU Eastern European member states, proves that institutions do not perform well if too few people believe in the norms they are built upon. Additional difficulty results from the fact that, like in case of other EU policies, also accession is hedged by many *ex-ante* conditions and formalities while the *ex-post* reality is guarded by almost none. The EU has at best at its disposal the cumbersome procedure of Article 7 of the Treaty to deal with its rogue member states. The only other way seems to be the withholding subsidy payments for those who abuse common norms (in 2022 the Court of Justice of the European Union is going to decide about the conformity of such procedures with the EU Treaties).

Concluding remarks

After two world wars in the life of one generation, Europeans wanted to prevent such devastation from happening again. The idea, put forward by Jean Monnet and Robert Schumann, was to build a community of European nations based on mutual trust and cooperation. Stronger would help weaker ones to reduce economic tensions between members. To achieve that, states would make their decisions jointly and, for that purpose, they would delegate some parts of their sovereign rights to the supranational authorities. With its solidarity working, the European Union gradually evolved into a highly integrated economic and political organisation of all (seemingly) democratic states on the

continent.

Institutions can work properly only when people who operate them believe in the underlying norms. If some members do not follow the rules, the entire mechanism is going to fall apart. Unfortunately, some of the new member states seem to have forgotten that their objective was to build a modern liberal democratic society and stopped satisfied at achieving the EU membership that was nothing more than one of the instruments useful on the way in building a democratic state.

Anti-liberal and anti-democratic political, mostly populist, processes in Western Europe and the US may be related to the disillusion with liberal democracy. In Poland however (and perhaps also some other former Soviet satellites), while the disillusion may indeed have played some role in the retreat from the democracy, the factors behind the de-democratisation are more complex. The weakness of the country civil society results in its inability to comply with the ethical norms that underlie the modern liberal democratic society. For the time being, some of the democratic institutions are still supported by the fact that the country is the EU member state, but such a situation is not sustainable in the long-term as it undermines the very foundations of the Union.

The process of de-democratisation in Poland (and Hungary) can be reversed only by the country's public itself. However, election victory for the liberal democratic opposition would be nothing more than just the beginning of restoring a democratic state. Equally important is to accept that the democracy building process requires deep and long education process aimed at embracing ethical norms that are supposed to be shared by all EU members. This may last for life span of a generation. The country that is not ready to follow the common standards should not participate in the common European project. The EU membership is voluntary, as the Brexit shows the country that does not agree with the inside norms can leave. But contrary to the United Kingdom, Poland is a small economy dependent on the EU market and its assistance. Leaving the EU would constitute enormous cost for the society and the economy. And only Polish public can decide whether it is worth to stay in.

Notes

- 1) The country's GDP per capita, that at the time of the 2004 EU accession amounted to just 48.4% of the EU average, reached 82.3% in 2018. Similarly, Poland's GDP per capita amounted to 30.4% that of Greece and 37.1% of Portugal at the time of the accession. In 2018 it became 75.9% and 65.8% respectively. If adjusted for purchasing power, the country reached the Portugal's level in 2019 and had surpassed Greece already by 2015. World Economic Outlook Database, 2019.
- 2) For instance, among other, the Prime Minister Mr. Morawiecki described the relations with the EU 'the third world war staged on Poland by the EU' (Financial Times, October 25, 2021). The Minister of Justice, Mr. Ziobro demanded withholding the EU membership contribution (Financial Times, December 12, 2021). The country's Constitutional Tribunal adjudicated that the Treaty of the European Union violates Polish constitution (Ruling K 3/21, October 7, 2021).
- 3) Although 70-80% of Poles regularly supports the EU membership, 37% says the country would do better outside the EU (22% believes that the costs of the EU membership exceed its benefits), 35% believes that the EU intends to force Poland to accept refugees and Poland is depopulating because of the EU membership, 30% thinks that the EU imposes values and standards countering "traditional Polish values" and the EU regulations unacceptably restrict Poland's sovereignty. Kantar public opinion research (October 20-26, 2021).
- 4) See the English translation of Orban (2014) full text (available on www.budapest-beacon.com)
- 5) Antoszewski (2018), p.17.
- 6) The ECB Executive Board (not even being the Bank's highest governing body), by allowing for direct

purchase of the Greek government bonds, decided that the ECB was not bound by the Article 123 of Treaty on the Functioning of the European Union (that prohibits direct purchase of debt instrument from the member states or its institutions or, in other words, *bailing them out*). See also Krawczyk (2018).

- 7) Zakaria's analysis also includes Slovakia. But while in the 1990s, under the Meciar administration, the country was far from being a liberal democracy, it has had substantial success in restoring its democratic credentials since then.
- 8) Croatia under Franjo Tudjman, Serbia under Slobodan Milosevic, Russia under Vladimir Putin etc. Levitsky and Way (2002) p. 52.
- 9) Note that the voters are not afraid that 'the rules of the game' could change radically. It is because any outright coup in the form of, say, eliminating elections altogether is practically impossible under the EU membership. That differs the 'electoral transaction' in Poland or Hungary from that in Russia or Belarus for example.
- 10) 72 % of those who responded to the survey, think that government corruption is a big problem, 60% that government is doing poor job battling corruption, 61% that government is run by a few big businesses, 32-34% that government official and MOPs are corrupt and only 17% thinks that government takes people's views into account when making decisions. Transparency International, *Global Corruption Barometer*, EU 2021.
- 11) On July 27, 2000, the Supreme Court ruled that transactions that do not follow the rules of the Canon Law are invalid even if they meet the stipulations of Poland's Civil Code. The ruling means that the legal regulations of the foreign country (Vatican is a foreign country to Polish citizens except for clergy) are considered to apply to transactions in Poland and are superior both to domestic and the EU regulations. It also imposed on Polish citizens the obligation of knowing the Canon Law before engaging in transactions with the Catholic Church entities. Borecki (2012)
- 12) Council Recommendation of 22 May 2018 on key competences for lifelong learning (2018/C 189/01)
- 13) European Commission (2012), IBE (2015), Voloneurope (2018)
- 14) Poland, after Romania and Italy has been one of the most frequent defendants among the EU member states before the European Court of Human Rights in Strasbourg. In most cases the accusing complained about unacceptable longevity of litigation and abuses of custody function by the prosecutors and the police. European Court of Human Rights (2018).
- 15) Withholding advertisements from state owned companies (they usually constitute a substantial part of the media revenue) seems to be a sufficient way to silence 'inconvenient' news.
- 16) Bulgaria and Romania were monarchies governed by military governments, Hungary was the autocracy where the dictator assumed the title of a regent, Poland fell victim of a military coup in 1926 after a few years of chaotic democratic government, similarly to Lithuania (since 1926), Latvia, and Estonia (both since 1934).
- 17) It seems worth noting that during discussions about the de-democratisation, the very common argument against the destruction of, for instance, independent judiciary is that "the EU may withhold subsidies" not that it is bad for the functioning of the state. Similarly, recalling the fact that subsidies are financed by the EU taxpayers, who may not be happy with financing autocratic regimes has put out many of 'prodemocratic' discussants even until recently. The examples are, in my opinion, telling a lot about the problems with ethical norms in the country.

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